

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 166 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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IND ISABGUL CORPORATION

Versus

GUJARAT ELECTRICITY BOARD

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Appearance:

MR PB MAJMUDAR for Petitioner

MR MD PANDYA for Respondent No. 1

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 25/04/96

ORAL JUDGEMENT

Admit. Mr. M.D.Pandya waives service of the notice on behalf of the respondent. By consent of the learned Advocate of the parties, the matter is taken up for final hearing to-day.

Upon consensus arrived at between the parties, the matter is disposed of by passing the following order.

The appellant has submitted that the appellant wants to withdraw Special Civil Suit No.59/95 pending on the file of the learned civil Judge (S.D.) Patan and wishes to approach the Appellate Committee of the respondent Board in light of the judgment rendered by the Division Bench of this Court reported in 1995 (2) G.L.H. 1 to point out the difficulties in making prompt payment of the full amount and seeks indulgence in that behalf subject to imposition of any conditions. The respondent Board having agreed to such a course being adopted and to the passing of the orders in terms set out hereunder, it is accordingly ordered that :

- 1) The appellant is permitted to withdraw the Special Civil Suit No. 59/95 pending on the file of the learned Civil Judge ( S.D.) at Patan and is permitted to approach the Appellate Committee for seeking redressal of his grievance against the supplementary bill for Rs.20,16,940.40 which was the subject matter of challenge in the suit.
- 2) The appellant shall within 15 days hereof present the appeal against the supplementary bill complying with the requirements of condition No.34 of the Conditions of Supply.
- 3) However, as far as the requirement of deposit of 30% of the supplementary bill as a condition precedent of preferring the appeal is concerned, it is agreed and accordingly ordered that the appellant shall pay 30% of the amount of the supplementary bill in instalments together with delayed payment charges thereon as stipulated hereunder:
  - a) The appellant shall pay a sum of Rs.2,00,508.20 on or before 30-4-1996.
  - b) The appellant shall pay the balance of 30% of the amount of the supplementary bill by four monthly instalments.
  - c) The first instalment shall be paid by 1-6-96 and the subsequent three instalments shall be payable on 15th of each succeeding month. The last instalment shall be paid together with delayed payment charges.
- 4) Upon the appellant withdrawing the aforesaid

Civil Suit No.59/95 from the trial Court and upon the appellant making payment of the first instalment of Rs.2,00,508.20 together with reconnection chargers, the appellant's power supply shall be restored subject to the appellant complying with the conditions of this order.

- 5) The respondent Board shall entertain the appeal that may be presented by the appellant and shall determine the same on merits without taking technical objection about the same having not been filed within the stipulated period. The appeal however shall be heard and decided on merits only after the full amount of 30% of the supplementary bill is paid as stipulated hereunder.
- 6) In the event of the Appellate Committee upholding the appellant's contention to any extent and in such event, if the amount paid towards the supplementary bill or any part thereof being held not recoverable, appropriate credit for the same shall be given in the subsequent bills for consumption of electricity. However, if the Appellate Committee holds that the further amount towards the supplementary bill after giving credit of the aforesaid 30% of the supplementary bill amount is payable, the appellant shall pay the same within such time and by such instalments as may be granted by the respondent Board.
- 7) The appellant shall undertake that till the full amount which is ultimately found due and payable by the Appellant to the Board is paid up, the appellant shall not in any manner transfer the assets of the firm and the possession of the suit premises in any manner to any one else without written consent of the respondent Board.
- 8) The appellant shall continue to pay the current consumption charges as and when they fall due and observe and perform the conditions of supply.
- 9) If the appellant feels aggrieved by the decision that may be rendered by the Appellate Committee, it would be open to the appellant to seek redress against the same in accordance with law by taking appropriate proceedings in appropriate Court.

- 10) The appellant shall file an undertaking to abide by the aforesaid conditions within 15 days hereof before this Court.
- 11) In the event of the appellant failing to abide by or comply with any of the conditions of this order, the respondent would be at liberty to disconnect the reconnected power supply without giving any further notice.

In view of the aforesaid order , the appellant has sought permission to withdraw this Appeal From Order. Permission granted. It stands dismissed as withdrawn subject to the aforesaid conditions. No order as to costs. D.S.permitted.

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